IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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CIVIL SECOND APPEAL No. 100 of 2005

HIMMAT SINGH
V/S
ARJUN SINGH

Mr. SD PUROHIT, for the appellant / petitioner

Mr. RAMESHWAR HEDAU & Mr. BP RAJPUROHIT, for the respondent

Date of Order : 23.11.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

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Heard learned counsel for the parties.

The learned lower Appellate Court after appreciating the evidence has found that the precise question involved in the litigation was, as to whether the Nohra “ABCD” was in old possession of the plaintiff, who has acquired title by adverse possession, and it has been found that even from the defendant's evidence, it is clear that the Nohra belonged to Mohan Singh, which was given to the plaintiff, and is in possession of the plaintiff for the last 20 years. Then the learned lower Appellate Court has also considered the construction said to have been raised anew, and has recorded a finding of fact that the construction is new, and simply because the open Chawk is surrounded by the property of the defendant, they have erected the wall, so as to exclude its use by the

plaintiff, who are also entitled to use it commonly.

In my view, the findings recorded are pure findings of fact, and are not vitiated on any of the grounds available under Section 100 CPC.

The appeal thus, has no force, and is dismissed summarily.

( N P GUPTA ),J.

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